

AMENDED IN ASSEMBLY JANUARY 9, 2006

AMENDED IN ASSEMBLY JANUARY 4, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 1090

Introduced by Assembly Member Matthews

February 22, 2005

An act to amend Sections ~~40051~~, 40116, 40151, 40194, 40200, 40201, ~~41701~~, 41780, 41780.1, 41780.2, 41781, ~~41821.5~~, ~~43020~~, ~~44002~~, and ~~50001~~ of, and, to add Sections 40105.5, 40116.5, 40172.5, 41781.4, and 44153 to, *41821.5, and 43020 of, to add Sections 40116.5 and 44153 to, and to repeal Section 40117 of,* the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 1090, as amended, Matthews. Solid waste: diversion: conversion.

(1) The existing California Integrated Waste Management Act of 1989 establishes an integrated waste management program administered by the California Integrated Waste Management Board and requires the board and local agencies to promote specified waste management practices, in order of priority. Under existing law, the act requires each city, county, and regional agency, if any, to develop a source reduction and recycling element of an integrated waste management plan containing specified components. The first and each subsequent revision of the element is required to divert 50% of the solid waste subject to the element, on and after January 1, 2000, through source reduction, recycling, and composting activities. except as specified.

The act defines the term “transformation” as meaning incineration, pyrolysis, distillation, or biological conversion other than composting. The act provides that “transformation” does not include composting, gasification, or biomass conversion. The act defines the term “solid waste facility” as including a gasification facility.

~~This bill would revise the waste management practices that the board and local agencies are required to promote.~~

~~The~~

This bill would repeal the definition of the term “gasification” and would define the terms “composting operation,” “composting facility,” and “conversion technology,” “beneficial use,” and “recovery” for purposes of the act. The bill would revise the definition of the term “transformation” to exclude pyrolysis, distillation, or biological conversion other than composting from that definition and would specify that transformation means the incineration of solid waste or the processing of solid waste, using specified processes, but does not include conversion technology. The bill would revise the definition of the term “solid waste facility” to delete a gasification facility and would instead include a conversion technology facility as a solid waste facility. The bill would make conforming changes to the definitions of ~~non-disposal~~ “nondisposal facility” and “transfer or processing station.” The bill would specify that 50 percent of that solid waste in the source reduction and recycling element is to be diverted from disposal and conversion technology and would revise the methods for determining the amount of solid waste required to be diverted to include conversion technology.

~~The bill would require the siting element to identify new conversion technology facility locations and would allow the source reduction and recycling element to include, in the 50% of solid waste required to be diverted, solid waste that is subject to recovery through conversion technology, if specified conditions are met with regard to the conversion technology project and the board holds a public hearing and makes certain findings.~~

(2) Existing law requires disposal facility operators to submit to counties certain information from periodic tracking surveys on the disposal tonnages by jurisdiction or region of origin and also requires each county to submit periodic reports to the cities within the county, to the regional agencies, and to the board, on the amount of solid waste disposed of by jurisdiction or region of origin.

This bill would require a conversion technology facility operator to submit to a county the information from periodic tracking surveys on the tonnages converted at the facility, and would require a county to submit the information on the amounts of solid waste converted, as specified, thereby imposing a state-mandated local program by imposing new duties upon counties.

(3) Existing law requires the board to adopt and revise regulations that set forth minimum standards for solid waste handling, transfer, composting, transformation, and disposal, and to adopt regulations specifying standards for the design, operation, maintenance, and ultimate reuse of solid waste facilities.

This bill would require the board to also adopt regulations for minimum standards for conversion technology.

(4) Existing law requires a person operating a solid waste facility to obtain a solid waste facilities permit from the local enforcement agency. Existing law requires the solid waste facilities permit to contain specified terms and conditions for the operation of the facility that the enforcement agency determines to be appropriate for the operation of the facility.

~~This bill would exempt from the requirement to obtain a solid waste facilities permit, a conversion technology facility, if the facility's principal function is to receive, store, convert, or process solid waste that is separated for reuse and is not intended for disposal.~~

The bill would prohibit an enforcement agency from issuing or revising a solid waste facilities permit for a project proposing to use conversion technology, unless the project meets specified requirements to regulate the handling of waste before the waste is subject to conversion and the handling of residual materials, ~~but would prohibit the permit from including any term or condition regarding the conversion process.~~

The bill would provide that it is not to be interpreted as authorizing the board or enforcement agencies to establish standards or permit terms and conditions over aspects of conversion technology processes that are within the jurisdiction of specified state and local agencies.

~~(5) Existing law prohibits a person from establishing or expanding a solid waste facility after a countywide or regional agency integrated waste management plan has been approved by the board, unless the solid waste facility meets one of certain criteria regarding the type of the facility.~~

~~This bill would additionally include, in those criteria, as an excluded facility, a solid waste facility that is a conversion technology facility, as specified and would require a person or agency proposing to establish a conversion technology facility to comply with a specified procedure regarding approval of the facility site. The bill would prohibit a local governing body from disapproving the proposed siting of a conversion technology facility unless it makes a specified determination, based on substantial evidence.~~

~~(6)–~~

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 40051 of the Public Resources Code is~~
2 ~~amended to read:~~

3 ~~40051. In implementing this division, the board and local~~
4 ~~agencies shall do both of the following:~~

5 ~~(a) Promote the following waste management practices in~~
6 ~~order of priority:~~

7 ~~(1) Source reduction.~~

8 ~~(2) Recovery, through recycling, composting, conversion~~
9 ~~technology, or other beneficial use technologies.~~

10 ~~(3) Environmentally safe transformation and environmentally~~
11 ~~safe land disposal, at the discretion of the city or county.~~

12 ~~(b) Maximize the use of all feasible source reduction and~~
13 ~~recovery options in order to reduce the amount of solid waste that~~
14 ~~must be disposed of by transformation and land disposal. For~~
15 ~~wastes that cannot feasibly be reduced at their source or~~
16 ~~recovered for beneficial use, the local agency may use~~
17 ~~environmentally safe transformation or environmentally safe land~~
18 ~~disposal, or both of those practices.~~

19 ~~SEC. 2. Section 40105.5 is added to the Public Resources~~
20 ~~Code, to read:~~

~~40105.5. “Beneficial use” means the point at which solid waste is no longer a solid waste for purposes of this chapter and reenters commerce as a market commodity or feedstock. For purposes of this section, that point occurs when the solid waste is used in a manufacturing process to make a product, used as an effective substitute for a commercial product, or used as a fuel for energy recovery.~~

~~SEC. 3.~~

SECTION 1. Section 40116 of the Public Resources Code is amended to read:

40116. (a) “Compost” means the product resulting from the controlled biological decomposition of organic wastes that are source separated from the municipal solid waste stream, or which are separated at a centralized facility. “Compost” includes vegetable, yard, and wood wastes which are not hazardous waste.

(b) “Composting operation” or “composting facility” means an operation or facility that produces compost, including an entity that produces compost aerobically and nonaerobically and an operation or facility that utilizes anaerobic digestion.

~~SEC. 4.~~

SEC. 2. Section 40116.5 is added to the Public Resources Code, to read:

40116.5. (a) “Conversion technology” means the processing of solid waste or waste-derived material, through a noncombustion thermal, chemical, or biological process, that produces a physical product, including, but not limited to, an alternative fuel, chemical, or other physical product that is used in the marketplace.

(b) “Conversion technology” does not include anaerobic digestion, biomass conversion, aerobic or anaerobic composting, or the placement of solid waste in a solid waste landfill or transformation.

(c) “Conversion technology operation or facility” means an operation or facility or location where conversion technology occurs.

SEC. 3. Section 40117 of the Public Resources Code is repealed.

~~40117. “Gasification” means a technology that uses a noncombustion thermal process to convert solid waste to a clean~~

1 burning fuel for the purpose of generating electricity, and that, at
2 minimum, meets all of the following criteria:

3 (a) ~~The technology does not use air or oxygen in the~~
4 ~~conversion process, except ambient air to maintain temperature~~
5 ~~control.~~

6 (b) ~~The technology produces no discharges of air contaminants~~
7 ~~or emissions, including greenhouse gases, as defined in~~
8 ~~subdivision (g) of Section 42801.1 of the Health and Safety~~
9 ~~Code.~~

10 (c) ~~The technology produces no discharges to surface or~~
11 ~~groundwaters of the state.~~

12 (d) ~~The technology produces no hazardous waste.~~

13 (e) ~~To the maximum extent feasible, the technology removes~~
14 ~~all recyclable materials and marketable green waste compostable~~
15 ~~materials from the solid waste stream prior to the conversion~~
16 ~~process and the owner or operator of the facility certifies that~~
17 ~~those materials will be recycled or composted.~~

18 (f) ~~The facility where the technology is used is in compliance~~
19 ~~with all applicable laws, regulations, and ordinances.~~

20 (g) ~~The facility certifies to the board that any local agency~~
21 ~~sending solid waste to the facility is in compliance with this~~
22 ~~division and has reduced, recycled, or composted solid waste to~~
23 ~~the maximum extent feasible, and the board makes a finding that~~
24 ~~the local agency has diverted at least 30 percent of all solid waste~~
25 ~~through source reduction, recycling, and composting.~~

26 ~~SEC. 5.~~

27 *SEC. 4.* Section 40151 of the Public Resources Code is
28 amended to read:

29 40151. "Nondisposal facility" means a solid waste facility
30 required to obtain a permit pursuant to Article 1 (commencing
31 with Section 44001) of Chapter 3 of Part 4, except a disposal
32 facility, a transformation facility, or a conversion technology
33 facility.

34 ~~SEC. 6.~~ Section 40172.5 is added to the Public Resources
35 Code, to read:

36 40172.5. "Recovery" means the reuse, recycling, and
37 extraction of materials and energy from solid waste, including,
38 but not limited to, recycling, composting, and conversion
39 technology.

~~SEC. 7.~~

SEC. 5. Section 40194 of the Public Resources Code is amended to read:

40194. "Solid waste facility" includes a solid waste transfer or processing station, a composting facility, a conversion technology facility, a transformation facility, and a disposal facility.

~~SEC. 8.~~

SEC. 6. Section 40200 of the Public Resources Code is amended to read:

40200. (a) "Transfer or processing station" or "station" includes those facilities utilized to receive solid wastes, temporarily store, separate, or otherwise process the materials in the solid wastes, or to transfer the solid wastes directly from smaller to larger vehicles for transport, and those facilities utilized for transformation.

(b) "Transfer or processing station" or "station" does not include any of the following:

(1) A facility, whose principal function is to receive, store, separate, or otherwise process in accordance with state minimum standards, manure.

(2) A facility, whose principal function is to receive, store, or otherwise process wastes which have already been separated for reuse and are not intended for disposal.

(3) The operations premises of a duly licensed solid waste handling operator who receives, stores, transfers, or otherwise processes wastes as an activity incidental to the conduct of a refuse collection and disposal business in accordance with regulations adopted pursuant to Section 43309.

~~SEC. 9.~~

SEC. 7. Section 40201 of the Public Resources Code is amended to read:

40201. "Transformation" means the incineration of solid waste or the processing of solid waste, through a noncombustion thermal, chemical, or biological process, that does not produce a physical product that is used in the marketplace. "Transformation" does not include composting, conversion technology, or biomass conversion.

~~SEC. 10. Section 41701 of the Public Resources Code is amended to read:~~

1 ~~41701. Each countywide siting element and revision thereto~~
2 ~~shall include, but is not limited to, all of the following:~~

3 ~~(a) A statement of goals and policies for the environmentally~~
4 ~~safe transformation or disposal of solid waste that cannot be~~
5 ~~reduced, recycled, or composted.~~

6 ~~(b) An estimate of the total transformation or disposal capacity~~
7 ~~in cubic yards that will be needed for a 15-year period to safely~~
8 ~~handle solid wastes generated within the county that cannot be~~
9 ~~reduced, recycled, or composted.~~

10 ~~(c) The remaining combined capacity of existing solid waste~~
11 ~~transformation or disposal facilities existing at the time of the~~
12 ~~preparation of the siting element, or revision thereto, in cubic~~
13 ~~yards and years.~~

14 ~~(d) The identification of an area or areas for the location of~~
15 ~~new solid waste transformation or disposal facilities, or the~~
16 ~~expansion of existing facilities, that are consistent with the~~
17 ~~applicable city or county general plan, if the county determines~~
18 ~~that existing capacity will be exhausted within 15 years or~~
19 ~~additional capacity is desired. In addition, the siting element shall~~
20 ~~include the identification of an area for the location of a new~~
21 ~~conversion technology facility that may be approved in~~
22 ~~accordance with subdivision (c) of Section 50001.~~

23 ~~(e) For countywide elements submitted or revised on or after~~
24 ~~January 1, 2003, a description of the actions taken by the city or~~
25 ~~county to solicit public participation by the affected~~
26 ~~communities, including, but not limited to, minority and~~
27 ~~low-income populations.~~

28 ~~SEC. 11.~~

29 ~~SEC. 8.~~ Section 41780 of the Public Resources Code is
30 amended to read:

31 41780. (a) Each city or county source reduction and
32 recycling element shall include an implementation schedule that
33 shows both of the following:

34 (1) For the initial element, the city or county shall divert 25
35 percent of all solid waste from landfill disposal or transformation
36 by January 1, 1995, through source reduction, recycling, and
37 composting activities.

38 (2) Except as provided in Sections 41783, 41784, and 41785,
39 for the first and each subsequent revision of the element, the city
40 or county shall divert 50 percent of all solid waste from disposal

1 and conversion technology on and after January 1, 2000, through
2 source reduction, recycling, and composting activities.

3 (b) Nothing in this part prohibits a city or county from
4 implementing source reduction, recycling, and composting
5 activities designed to exceed these requirements.

6 ~~SEC. 12.~~

7 *SEC. 9.* Section 41780.1 of the Public Resources Code is
8 amended to read:

9 41780.1. (a) Notwithstanding any other requirement of this
10 part, for the purposes of determining the amount of solid waste
11 that a regional agency is required to divert from disposal and
12 conversion technology through source reduction, recycling, and
13 composting to meet the diversion requirements of Section 41780,
14 the regional agency shall use the solid waste disposal projections
15 in the source reduction and recycling elements of the regional
16 agency's member agencies. The method prescribed in Section
17 41780.2 shall be used to determine the maximum amount of
18 disposal and conversion technology allowable to meet the
19 diversion requirements of Section 41780.

20 (b) Notwithstanding any other requirement of this part, for the
21 purposes of determining the amount of solid waste that a city or
22 county is required to divert from disposal and conversion
23 technology through source reduction, recycling, and composting
24 to meet the diversion requirements of Section 41780, the city or
25 county shall use the solid waste disposal projections in the source
26 reduction and recycling elements of the city or county. The
27 method prescribed in Section 41780.2 shall be used to determine
28 the maximum amount of disposal and conversion technology
29 allowable to meet the diversion requirements of Section 41780.

30 (c) To determine achievement of the diversion requirements of
31 Section 41780 in 1995 and in the year 2000, projections of
32 disposal amounts from the source reduction and recycling
33 elements shall be adjusted to reflect annual increases or decreases
34 in population and other factors affecting the waste stream, as
35 determined by the board. By January 1, 1994, the board shall
36 study the factors which affect the generation and disposal of solid
37 waste and shall develop a standard methodology and guidelines
38 to be used by cities, counties, and regional agencies in adjusting
39 disposal projections as required by this section.

(d) The amount of additional diversion required to be achieved by a regional agency to meet the diversion requirements of Section 41780 shall be equal to the sum of the diversion requirements of its member agencies. To determine the maximum amount of disposal and conversion technology allowable for the regional agency to meet the diversion requirements of Section 41780, the maximum amount of disposal and conversion technology allowable for each member agency shall be added together to yield the agency disposable and conversion technology maximum.

~~SEC. 13.~~

SEC. 10. Section 41780.2 of the Public Resources Code is amended to read:

41780.2. (a) Each city, county, or member agency of a regional agency shall determine the amount of reduction in solid waste disposal and conversion technology and the amount of additional diversion required from the base-year amounts by using the methods set forth in this section.

(b) The city, county, or member agency of a regional agency shall multiply the total amount of base-year solid waste generation, as adjusted using the methods described in subdivision (c) of Section 41780.1, by 0.75 to determine the maximum amount of total disposal allowable in 1995 to meet the diversion requirements of Section 41780.

(c) The city, county, or member agency of a regional agency shall multiply the total amount of base-year solid waste generation, as adjusted using the methods described in subdivision (c) of Section 41780.1, by 0.50 to determine the maximum amount of total disposal and conversion technology allowable in the year 2000 to meet the diversion requirements of Section 41780.

(d) The city, county, or member agency of a regional agency shall multiply the total amount of base-year solid waste generation, as adjusted using the methods described in subdivision (c) of Section 41780.1, by 0.25 to determine the minimum amount of total diversion needed in the year 1995 to meet the diversion requirements of Section 41780.

(e) The city, county, or member agency of a regional agency shall multiply the total amount of base-year solid waste generation, as adjusted using the methods described in

1 subdivision (c) of Section 41780.1, by 0.50 to determine the
2 minimum amount of total diversion needed in the year 2000 to
3 meet the diversion requirements of Section 41780.

4 (f) The city, county, or member agency of a regional agency
5 shall subtract the total amount of base-year existing diversion
6 from the minimum total diversion required as determined in
7 subdivision (d) or (e) to determine the amount of additional
8 diversion needed to meet the diversion requirements of Section
9 41780. This amount of additional diversion shall be equal to the
10 minimum amount of additional reduction in disposal and
11 conversion technology amounts which is needed to comply with
12 Section 41780.

13 ~~SEC. 14.~~

14 *SEC. 11.* Section 41781 of the Public Resources Code is
15 amended to read:

16 41781. (a) Except as provided in Sections 41781.1, and
17 41781.2, for the purpose of determining the base rate of solid
18 waste from which diversion requirements shall be calculated,
19 “solid waste” includes only the following:

20 (1) The amount of solid waste generated within a local
21 agency’s jurisdiction, the types and quantities of which were
22 disposed of at a permitted disposal or conversion technology
23 facility as of January 1, 1990. Nothing in this section requires
24 local agencies to perform waste characterization in addition to
25 the waste characterization requirements established under
26 Sections 41030, 41031, 41330, 41331, and 41332.

27 (2) The amount of solid waste diverted from a disposal or
28 conversion technology facility through source reduction,
29 recycling, or composting.

30 (b) For the purposes of this section, “solid waste” does not
31 include any solid waste which would not normally be disposed of
32 at a disposal or conversion technology facility.

33 (c) For the purposes of this chapter, the amount of solid waste
34 from which the required reductions are measured shall be the
35 amount of solid waste existing on January 1, 1990, with future
36 adjustments for increases or decreases in the quantity of waste
37 caused only by changes in population or changes in the number
38 or size of governmental, industrial, or commercial operations in
39 the jurisdiction.

~~SEC. 15. Section 41781.4 is added to the Public Resources Code, to read:~~

~~41781.4. For any city, county, or regional agency source reduction and recycling element submitted to the board after January 1, 1995, the element may include, in the 50 percent of solid waste required to be diverted, as specified in paragraph (2) of subdivision (a) of Section 41780, solid waste subject to recovery through conversion technology, if all of the following conditions are met:~~

~~(a) The conversion technology project is in compliance with all applicable laws, regulations, and ordinances.~~

~~(b) The board holds a public hearing in the city, county, or regional agency jurisdiction within which the conversion technology project is proposed, and, after the public hearing, the board makes all of the following findings, based upon substantial evidence in the record:~~

~~(1) The jurisdiction will continue to implement the recycling and diversion programs in the jurisdiction's source reduction and recycling element or its modified annual report.~~

~~(2) The facility complements the existing recycling and diversion infrastructure and is converting solid waste that was previously disposed.~~

~~(3) The facility maintains or enhances environmental benefits.~~

~~(4) The facility maintains or enhances the economic sustainability of the integrated waste management system.~~

~~SEC. 16.~~

~~SEC. 12. Section 41821.5 of the Public Resources Code is amended to read:~~

~~41821.5. (a) Disposal and conversion technology facility operators shall submit to counties information from periodic tracking surveys on the tonnages by jurisdiction or region of origin that are disposed of or converted at each facility. To enable disposal facility operators to provide that information, solid waste handlers and transfer station operators shall provide information to disposal and conversion technology facility operators on the origin of the solid waste that they deliver to the disposal and conversion technology facility.~~

~~(b) Recycling and composting facilities shall submit periodic information to counties on the types and quantities of materials that are disposed of, sold to end users, or that are sold to~~

1 exporters or transporters for sale outside of the state, by county
2 of origin. When materials are sold or transferred by one recycling
3 or composting facility to another, for other than an end use of the
4 material or for export, the seller or transferor of the material shall
5 inform the buyer or transferee of the county of origin of the
6 materials. The reporting requirements of this subdivision do not
7 apply to entities that sell the byproducts of a manufacturing
8 process.

9 (c) Each county shall submit periodic reports to the cities
10 within the county, to any regional agency of which it is a member
11 agency, and to the board, on the amounts of solid waste disposed
12 or converted by jurisdiction or region of origin, as specified in
13 subdivision (a), and on the categories and amounts of solid waste
14 diverted to recycling and composting facilities within the county
15 or region, as specified in subdivision (b).

16 (d) The board may adopt regulations pursuant to this section
17 requiring practices and procedures that are reasonable and
18 necessary to perform the periodic tracking surveys required by
19 this section, and that provide a representative accounting of solid
20 wastes that are handled, processed, or disposed. Those
21 regulations or periodic tracking surveys approved by the board
22 shall not impose an unreasonable burden on waste handling,
23 processing, conversion technology, or disposal operations or
24 otherwise interfere with the safe handling, processing, and
25 disposal of solid waste. Until the effective date of the regulations
26 adopted by the board to implement the changes made by the act
27 amending this section at the 2005-06 Regular Legislative
28 Session, a conversion technology facility shall comply with
29 theregulations adopted to implement this section that apply to a
30 disposal facility.

31 (e) On or before January 1, 2002, the board shall submit a
32 report to the Legislature that evaluates the implementation of this
33 section. The report shall include, but not be limited to, all of the
34 following:

35 (1) An evaluation of the accuracy of the disposal reporting
36 system under differing circumstances.

37 (2) The status of implementation of the disposal reporting
38 system at the local level by waste haulers, landfills, transfer
39 station and material recovery operators, and local agencies.

1 (3) The need for modification of the disposal reporting system
2 to improve accuracy.

3 (4) Recommendations for regulatory and statutory changes
4 needed to address deficiencies in the disposal reporting system.

5 (5) Recommendations to improve implementation and to
6 streamline the reporting system, including ways to assist agencies
7 to meet the reporting and tracking requirements.

8 (f) The board shall convene a working group composed of
9 representatives of stakeholder groups, including, but not limited
10 to, cities, counties, regional agencies, the solid waste industry,
11 recyclers, and environmental organizations, to assist the board in
12 preparing the report required pursuant to subdivision (e).

13 ~~SEC. 17.~~

14 *SEC. 13.* Section 43020 of the Public Resources Code is
15 amended to read:

16 43020. The board shall adopt and revise regulations which set
17 forth minimum standards for solid waste handling, transfer,
18 composting, transformation, conversion technology, and
19 disposal, in accordance with this division, and Section 117590 of,
20 and Chapter 6.5 (commencing with Section 25100) of Division
21 20 of, the Health and Safety Code. The board shall not include
22 any requirements that are already under the authority of the State
23 Air Resources Board for the prevention of air pollution or of the
24 state water board for the prevention of water pollution.

25 ~~SEC. 18. Section 44002 of the Public Resources Code is~~
26 ~~amended to read:~~

27 ~~44002. (a) (1) No person shall operate a solid waste facility~~
28 ~~without a solid waste facilities permit if that facility is required to~~
29 ~~have a permit pursuant to this division.~~

30 ~~(2) The prohibition specified in paragraph (1) includes, but is~~
31 ~~not limited to, the operation of a solid waste facility without a~~
32 ~~required solid waste facilities permit or the operation of a solid~~
33 ~~waste facility outside the permitted boundaries specified in a~~
34 ~~solid waste facilities permit.~~

35 ~~(b) If the enforcement agency determines that a person is~~
36 ~~operating a solid waste facility in violation of subdivision (a), the~~
37 ~~enforcement agency shall immediately issue a cease and desist~~
38 ~~order pursuant to Section 45005 ordering the facility to~~
39 ~~immediately cease all activities for which a solid waste facilities~~
40 ~~permit is required and desist from those activities until the person~~

1 obtains a valid solid waste facilities permit authorizing the
2 activities or has obtained other authorization pursuant to this
3 division.

4 (e) The operator of a conversion technology facility is not
5 required to obtain a solid waste facilities permit if the facility's
6 principal function is to receive, store, convert, or otherwise
7 process solid waste that has already been separated for reuse.
8 Until the effective date of the regulations adopted by the board to
9 implement this subdivision, the regulations adopted by the board
10 that define the term "transfer or processing station," as provided
11 in paragraph (2) of subdivision (b) of Section 40200, shall apply
12 to a conversion technology facility.

13 ~~SEC. 19.~~

14 *SEC. 14.* Section 44153 is added to the Public Resources
15 Code, to read:

16 44153. The enforcement agency shall not issue or revise a
17 solid waste facilities permit for a proposed project that proposes
18 to use conversion technology, as defined in Section 40116.5,
19 unless the project complies with all of the following conditions:

20 (a) The proposed project is consistent with state solid waste
21 management policy as set forth in Section 40051.

22 (b) The proposed conversion technology facility, and any
23 contracts or commitments the proposed conversion technology
24 facility has entered into for the provision of waste, uses front-end
25 recycling methods or programs to remove all recyclable materials
26 from the waste stream prior to conversion technology to the
27 maximum extent feasible.

28 (c) The jurisdiction continues to implement the recycling and
29 diversion programs in the jurisdiction's source reduction and
30 recycling element or its modified annual report.

31 (d) The facility complements the existing recycling and
32 diversion infrastructure and is converting solid waste that was
33 previously disposed.

34 (e) The facility maintains or enhances environmental benefits.

35 (f) The facility maintains or enhances the economic
36 sustainability of the integrated waste management system.

37 (g) The ash or other residue generated from the conversion
38 technology facility is routinely tested at least once a month and,
39 if hazardous wastes are present, the ash or residue is sent to a
40 Class 1 hazardous waste disposal facility.

1 ~~SEC. 20. Section 50001 of the Public Resources Code is~~
2 ~~amended to read:~~

3 ~~50001. (a) Except as provided by subdivision (b), after a~~
4 ~~countywide or regional agency integrated waste management~~
5 ~~plan has been approved by the California Integrated Waste~~
6 ~~Management Board pursuant to Division 30 (commencing with~~
7 ~~Section 40000), no person shall establish or expand a solid waste~~
8 ~~facility, as defined in Section 40194, in the county unless the~~
9 ~~solid waste facility meets one of the following criteria:~~

10 ~~(1) The solid waste facility is a disposal facility or a~~
11 ~~transformation facility, the location of which is identified in the~~
12 ~~countywide siting element or amendment thereto, which has been~~
13 ~~approved pursuant to Section 41721.~~

14 ~~(2) The solid waste facility is a facility which is designed to,~~
15 ~~and which as a condition of its permit, will recover for reuse or~~
16 ~~recycling at least 5 percent of the total volume of material~~
17 ~~received by the facility, and which is identified in the~~
18 ~~nondisposal facility element or amendment thereto, which has~~
19 ~~been approved pursuant to Section 41800 or 41801.5.~~

20 ~~(3) The solid waste facility is a conversion technology facility~~
21 ~~that meets the requirements of subdivision (c).~~

22 ~~(b) Solid waste facilities other than those specified in~~
23 ~~paragraphs (1) and (2) of subdivision (a) shall not be required to~~
24 ~~comply with the requirements of this section.~~

25 ~~(c) The person or agency proposing to establish a solid waste~~
26 ~~facility shall prepare and submit a site identification and~~
27 ~~description of the proposed facility to the task force established~~
28 ~~pursuant to Section 40950. Within 90 days after the site~~
29 ~~identification and description is submitted to the task force, the~~
30 ~~task force shall meet and comment on the proposed solid waste~~
31 ~~facility in writing. These comments shall include, but are not~~
32 ~~limited to, the relationship between the proposed solid waste~~
33 ~~facility and the implementation schedule requirements of Section~~
34 ~~41780 and the regional impact of the facility. The task force shall~~
35 ~~transmit these comments to the person or public agency~~
36 ~~proposing establishment of the solid waste facility, to the county,~~
37 ~~and to all cities within the county. The comments shall become~~
38 ~~part of the official record of the proposed solid waste facility.~~

39 ~~(d) The review and comment by the local task force required~~
40 ~~by subdivision (c) for amendment to an element may be satisfied~~

1 by the review required by subdivision (a) of Section 41734 for an
2 amendment to an element.

3 (e) (1) A person or agency proposing to establish a conversion
4 technology facility shall prepare and submit a site identification
5 and description of the proposed facility to the local governing
6 body of the jurisdiction in which the facility is to be located and
7 to local governing bodies of those jurisdictions directly adjacent
8 to the host jurisdiction. Within 90 days after a site identification
9 and description is submitted to each jurisdiction, the local
10 governing body of each jurisdiction shall either approve or
11 disapprove the siting of the facility. If a local governing body
12 fails to act within this 90-day period, that local governing body
13 shall be deemed to approve the siting of the facility.

14 (2) A proposed conversion technology facility shall be deemed
15 to be in compliance with the requirements of this section if its
16 siting has been approved by the host jurisdiction and a majority
17 of directly adjacent jurisdictions. If the siting of a conversion
18 technology facility is approved pursuant to this paragraph, its site
19 identification and description shall be appended to the
20 countywide siting element, but it shall not be considered to be an
21 amendment to the countywide siting element.

22 (3) If a local governing body disapproves the proposed siting
23 of a conversion technology facility, that body shall mail notice of
24 its decision by first-class mail to the person proposing the facility
25 within 10 days of the disapproval, stating its reasons for the
26 disapproval.

27 (4) A local governing body shall not disapprove the proposed
28 siting of a conversion technology facility unless it determines,
29 based on substantial evidence in the record, that the proposed
30 siting of the facility would cause one or more significant adverse
31 impacts within its boundaries from the proposed project.

32 (5) Within 45 days after the date of disapproval because the
33 host jurisdiction on a majority of directly adjacent jurisdictions
34 did not approve the siting pursuant to this subdivision, or the
35 board did not concur in the issuance of a solid waste facilities
36 permit to a conversion technology facility as a result of the
37 disapproval, a person may file with the superior court in the
38 county of the host jurisdiction a writ of mandate for review of the
39 disapproval or the decision not to concur. The evidence before
40 the court shall consist of the record before all the local governing

1 ~~bodies that disapproved the proposed facility siting or the record~~
2 ~~before the board in its determination not to concur in issuance of~~
3 ~~the solid waste facilities permit, or both. Section 1094.5 of the~~
4 ~~Code of Civil Procedure shall govern the proceedings conducted~~
5 ~~pursuant to this subdivision.~~

6 ~~SEC. 21.~~

7 *SEC. 15.* It is not the intent of the Legislature in enacting this
8 act to modify the existing limitations on the extent of the
9 authority or jurisdiction of the California Integrated Waste
10 Management Board over matters that are within the authority and
11 jurisdiction of other state agencies. Therefore, this act shall not
12 be interpreted to provide the California Integrated Waste
13 Management Board or ~~local enforcement~~ agencies that
14 implement in their local jurisdiction the California Integrated
15 Waste Management Act of 1989 with any authority or
16 jurisdiction to establish standards or permit terms and conditions
17 over aspects of conversion technology processes that are within
18 the jurisdiction of the State Air Resources Board, air pollution
19 control districts, and air quality management districts, for the
20 prevention of air pollution, ~~or of the state water board or regional~~
21 ~~water boards pollution, or of the State Water Resources Control~~
22 ~~Board or California regional water quality control boards,~~ for
23 the prevention of water pollution.

24 ~~SEC. 22.~~

25 *SEC. 16.* No reimbursement is required by this act pursuant to
26 Section 6 of Article XIII B of the California Constitution because
27 a local agency or school district has the authority to levy service
28 charges, fees, or assessments sufficient to pay for the program or
29 level of service mandated by this act, within the meaning of
30 Section 17556 of the Government Code.